

97. A method as in Claim 95, further comprising:

storing result data for the authorized user; and

assigning the user to a new control group based on the stored result data for the user.

REMARKS

Applicant has reviewed the Office Action dated March 28, 2002. Claims 81-97 are pending. Claims 81-97 were rejected over Szabo (U.S. Patent No. 5,954,640) and/or Baker et al. (U.S. Patent No. 5,678,041), under 35 USC 103(a). Claims 86, 81-84, 93, and 95 were rejected under 35 USC 112, second paragraph.

Claim 86 was objected to for reciting “by the method.” Applicant has amended Claim 86 to more clearly recite the present invention. Applicant has amended Claim 86 to make clear that the assigning of the user to one of the control groups is done automatically based on attributes, to clearly recite that the assigning is done by the method automatically.

Claims 81-84, 93, and 95 were rejected under 35 USC 112, second paragraph as being indefinite. Claims 81-84, 93, and 95 have been amended to more clearly recite the present invention. Claim 95 has been amended to depend from Claim 93 rather than Claim 83, providing antecedent basis for “the control group.”

Claims 81, 93, and 94 were rejected under 35 USC 103(a) as unpatentable over Baker et al. Claim 81, as amended, recites a method of providing wellness-related services, wherein a sponsored portal is at least in part sponsored by and located at a fitness center, determining whether the portal was sponsored, and responding to the request based in part on whether the

portal was sponsored. The Office Action states that Baker et al. do not expressly disclose using the online system at a fitness center, and that the claim limitations reciting that the database is a wellness-related database are found only in nonfunctional descriptive material and are not functionally involved in the steps recited. The Office Action further states that the location of the computers make no difference and that the content of the database makes no difference. See the Office Action, page 4, last paragraph through page 5, first paragraph.

Applicant respectfully submits that the examiner may be viewing the recited invention only as a computer network invention. More specifically, Applicant believes that the examiner is equating all databases, regardless of content and all portal identifiers regardless of the identifier meaning and regardless of whether the identity of the portal signifies location in a fitness center. Applicant believes that the examiner has given the sponsorship of the sponsored portal no weight. Applicant respectfully submits that the examiner has read all of the business method limitations out of Claim 81, and other claims of the presently recited invention.

Applicant submits that business method related claim limitations are limitations and are presently given patentable weight and are examinable under United States patent law. The present invention provides a method of providing wellness-related services, including providing additional services to portals sponsored by, and located at, fitness centers. The fitness centers may, for example, pay for the portal and may pay recurring fees for access to the computer network providing the method. In return, the method can provide additional services and/or suggestions to purchase additional goods or services at the fitness center, including additional lessons or training. The present invention further provides, as recited in Claim 81, accessing the online site from a nonsponsored portal through the Internet. Claim 81 thus recites a method for

responding to requests from sponsored portals located in fitness centers differently from nonsponsored portals.

Applicant respectfully submits that Baker et al. do not disclose methods for providing wellness-related services from an online site to both sponsored portals sponsored by and located at a fitness center and nonsponsored portals, where responding to information requests depends on whether the portal was sponsored. Claims 82, 83, 84, 95-97 depend from Claim 83, and are likewise patentable over Baker et al. Reconsideration and reexamination is respectfully requested.

Claim 93 was rejected in the Office Action, which stated that Claim 93 contained no further limitations over Claim 81. Claim 93, as amended, recites a method of providing wellness-related services and providing a different level of services to the user based at least in part on the results of determining if the request came from one of the sponsor portals located in a fitness center. As discussed above with respect to Claim 81, Applicant respectfully submits that Baker et al. do not disclose providing wellness-related services over a distributed communications network, wherein a different level of services are provided based on whether a request comes from a sponsored portal located in a fitness center. Applicant respectfully submits that Claim 93, as amended to incorporate the limitations of Claim 94, is patentable over Baker et al. Reexamination and reconsideration of Claim 93 is respectfully requested.

Claims 82-92 and 95-97 were rejected under 35 USC 103(a) as unpatentable over Baker et al., in view of Szabo. Claims 82-84 and 95-97 depend from Claim 81, and are believed patentable for the reasons discussed with respect to Claim 81 above. Claim 85 recites a method of providing wellness-related services, wherein authorized users are able to enter fitness-related

data selected from the group consisting of workout plans, workout goals, weight training plans, weight training weights and weight training repetitions at the fitness center and view the fitness data from the nonsponsored portals. Applicant respectfully submits that neither Baker et al. nor Szabo disclose a method for providing wellness-related services including allowing authorized users to enter fitness-related data selected from the group consisting of workout plans, workout goals, weight training plans, weight training weights and weight training repetitions at a fitness center and to view the fitness data from the nonsponsored portals. The ability to enter fitness-related data, for example, workout history data, at a fitness center and later retrieve this data from a nonsponsored portal, for example, over the Internet, is a significant and patentable invention over Baker et al., which discloses a system and method for restricting user access rights on the Internet for a relational database. Similarly, Applicant respectfully submits that Szabo, which discusses providing nutritional supplementation information, does not disclose providing wellness-related services including entering fitness-related data at the fitness center and viewing fitness data from nonsponsored portals. Applicant respectfully submits that neither Baker et al. nor Szabo disclose the invention recited by Claim 85. Reexamination and reconsideration is respectfully requested.

Claim 86, as amended, recites a method of providing wellness-related services including providing at least one control group and assigning the user to one of the control groups automatically based on user attributes. The Office Action states that Szabo discloses providing at least one control group and assigning the user to one of the control groups, wherein the assigning is done based on user attributes. See the Office Action, page 8, last paragraph. Applicant respectfully submits that Szabo, in column 9, line 66-column 10, line 9, discusses groups of users, but does not disclose assigning users to groups automatically based on user

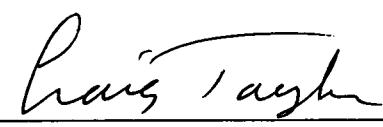
attributes. The present invention, as recited in Claim 86, provides a method for automatically assigning users to groups, for example, based on fitness attributes or levels, such that programs and tracking can be administered and followed automatically on a group, rather than an individual level. Applicant respectfully submits that Szabo does not disclose assigning users to control groups automatically based on user attributes. Rather, Szabo enters users, presumably manually, according to predetermined groups, such as a family or scouts on a camping trip Szabo, col. 2, P. 18-32. Applicant respectfully submits that Szabo does not disclose the invention recited in Claim 86. Claims 87-92 depend from Claim 86. Applicant respectfully submits that Claims 86-92, as amended, are patentable over Baker et al. and Szabo. Reexamination and reconsideration are respectfully requested.

Reexamination and reconsideration of all pending claims is respectfully requested. If the examiner believes that a telephone conference would be of assistance, please do not hesitate to call the undersigned at 612.492.7016.

The Commissioner is hereby authorized to charge any additional filing fees required to Deposit Account No. 061910. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Dated: July 29, 2002



Craig F. Taylor
Registration No. 40,199
Fredrikson & Byron, P.A.
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402
(612) 492-7016

#2679523\1



APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Amendments to Claims 81, 83, 85-86, 88-89, 93 and 95.

81. (Amended) A method of providing wellness-related services, including at least one of wellness, health, or fitness services through a publicly accessible distributed network to authorized users using authorized portals, comprising:

providing an online site that enables wellness-related databases to be accessed from at least one of a sponsored and a non-sponsored portal;

placing in communication at least one of a sponsored and non-sponsored portal to the online site through the publicly accessible distributed network [accesses the on-line site through the Internet,] wherein the publicly accessible distributed network includes the Internet, wherein the sponsored portal is at least in part sponsored by and located at, a fitness center, and wherein at least one of the non-sponsored portals accesses the on-line site through the Internet;

[sending] receiving a request [from] at the online site requesting access to the wellness-related databases;

processing the request at the online site to determine whether the portal was sponsored and whether the request was received from an authorized user; and

responding to the request based in part on whether the portal was sponsored and whether the user is authorized.

82. A method as in Claim 81, wherein the method further comprises obtaining fitness-related data from the user through the sponsored portal at the fitness center, entering the fitness

data for the user into the database, and providing access to the user to the fitness data through the non-sponsored portal through the Internet.

83. (Amended) A method as in Claim 82, further comprising automatically assigning the user to a control group based on user attributes.

84. A method as in Claim 83, further comprising providing fitness advice and goals to the control group, wherein the advice and goals are at least in part a result of the group result data.

85. (Amended) A method of providing wellness-related services, including at least one of wellness, health, or fitness services through a publicly accessible distributed network to authorized users using authorized portals, comprising:

providing an online site that enables wellness-related databases to be accessed from at least one of a sponsored and a non-sponsored portal; and

placing in communication at least one of a sponsored and non-sponsored portal to the online site through a publicly available distributed network;

wherein at least one of the sponsored portals includes a computer display located in a fitness center, wherein the method further comprises providing access to the authorized users at both the fitness center sponsored portal and the non-sponsored portals, wherein the authorized users are able to enter fitness-related data selected from the group consisting of workout plans, workout goals, weight training plans, weight training weights and weight training repetitions at the fitness center and view the fitness data from the non-sponsored portals.

86. (Amended) A method of providing wellness-related services, including at least one of wellness, health or fitness services to an authorized user through a distributed communications network, comprising:

identifying a portal with a portal identifier;

storing the portal identifier associated with the portal in a database;

[sending] receiving a request from the portal [to] by an online wellness-related site;

processing the request at a controller to determine whether the request was from the portal;

assigning an access code to the user, the access code defining a level of wellness-related services available to the user;

providing services to the user through the distributed network that corresponds to the user's access code;

providing at least one control group, wherein each control group includes at least one authorized user; and

assigning the user to one of the control groups, wherein the assigning is done [by the method] automatically based on user attributes[, wherein at the least one control group is provided by the method].

87. A method as in Claim 86, wherein the services providing step comprises providing information or goods to the user based upon the control group to which the user has been assigned.

88. (Amended) A method as in Claim 86, further comprising the step of creating practical workout guidelines and workout advice for the control group, wherein the services providing step comprises providing a user improvement plan for the user, and the user improvement plan is selected to be related to the practical guidelines and advice for the control group.

89. (Amended) A method as in Claim 88, wherein the user improvement plan is at least in part based on the collective workout related attributes of the control group.

90. A method as in Claim 86, wherein each control group includes group result data, the method further comprising the steps of:

providing the result data to the portal;

storing the result data to the group result data for the authorized user's control group; and

adjusting the user improvement plan for each user in the authorized user's control group based on the stored group result data.

91. A method as in Claim 88, further comprising the step of providing an alarm signal to a system administrator if the user improvement plan for the users in the control group needs to be adjusted.

92. The method as in Claim 88, further comprising:

storing result data for the authorized user; and

assigning the user to a new control group based on the stored result data for the user.

93. (Amended) A method of providing wellness-related services, including at least one of wellness, health, or fitness services through a distributed communications network, wherein the network is coupled to an on-line wellness related site and to a plurality of sponsored portals located at fitness centers and non-sponsored portals the method comprising:

[sending] receiving a request from one of the sponsored or non-sponsored portals by the [a portal to an] online wellness-related site;

processing the request at a controller to determine whether the request was received from an authorized user;

providing services to the user through the distributed network;

[providing a non-sponsored portal;]

determining whether the request was received from one of the sponsored [and non-sponsored] portals located at fitness centers; and

controlling the services available to the user based at least in part on the results of the determining step[.] , wherein a different level of services are provided to the user based at least in part on the results of determining if the request came from one of the sponsored portals located in a fitness center.

94. (Deleted).

95. (Amended) A method as in Claim [93] 83, further comprising the step of creating practical guidelines and advice for the control group, and wherein the services providing step comprises providing a user improvement plan for the user, the user improvement plan is selected

to be similar to the practical guidelines and advice for the control group.

96. A method as in Claim 95, wherein each control group includes group result data, the method further comprising the step of:

providing result data to the portal;

storing the result data to the group result data for the authorized user's control group; and

adjusting the user improvement plan for each user in the authorized user's control group based on the stored group result data.

97. A method as in Claim 95, further comprising:

storing result data for the authorized user; and

assigning the user to a new control group based on the stored result data for the user.